

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Richard and Loraine Gilroy, and the marital
community comprised thereof,

Plaintiffs,

v.

Seabourn Cruise Line, Ltd. D/b/a Seabourn
Cruise Line,

Defendant.

C12-107Z

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiffs' motion for certification pursuant to 28 U.S.C. § 1292(b), docket no. 27, is DENIED. The issue of whether the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York 1958) (the "New York Convention") applies is neither "a controlling question of law" nor a question as to which "substantial ground for difference of opinion" exists. *See McFarlin v. Conseco Servs., LLC*, 381 F.3d 1251, 1259 (11th Cir. 2004) ("§ 1292(b) appeals were intended, and should be reserved, for situations in which the court of appeals can rule on a pure, controlling question of law without having to delve beyond the surface of the record in order to determine the facts. The antithesis of a proper § 1292(b) appeal is one that turns on . . . whether the district court properly applied settled law to the facts or evidence of a particular case." (citations omitted)). Moreover, although an immediate appeal might serve to clarify whether the parties must arbitrate, it would do so only in contravention of the FAA's goal of "mov[ing] the parties to an arbitrable dispute out of court and into arbitration as quickly and easily as possible." *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1, 22 (1983).

1 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
2 record and to the Clerk for the United States Court of Appeals for the Ninth Circuit.

3 Filed and entered this 8th day of June, 2012.

4 WILLIAM M. McCOOL, Clerk

5 s/ Claudia Hawney
6 By _____
7 Claudia Hawney
8 Deputy Clerk
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